

**Introduced by Senator Pavley**

February 19, 2014

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An act to amend Section 3502.3 of the Business and Professions Code, and to amend Section 2708 of the Unemployment Insurance Code, relating to physician assistants.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1083, as introduced, Pavley. Physician assistants: disability certifications.

The Physician Assistant Practice Act authorizes a delegation of services agreement to authorize a physician assistant to engage in specified activities.

Existing law requires a claimant for unemployment compensation disability benefits to establish medical eligibility for each uninterrupted period of disability by filing a first claim for disability benefits supported by the certificate of a treating physician or practitioner that establishes the sickness, injury, or pregnancy of the employee, or the condition of the family member that warrants the care of the employee. Existing law defines the term "practitioner" to mean a person duly licensed or certified in California acting within the scope of his or her license or certification who is a dentist, podiatrist, or a nurse practitioner, as prescribed.

This bill would amend the Physician Assistant Practice Act to authorize a physician assistant to certify disability, after performance of a physical examination by the physician assistant under the supervision of a physician and surgeon consistent with the act. The bill would correspondingly expand the definition of practitioner to include a physician assistant.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 3502.3 of the Business and Professions  
2     Code is amended to read:  
3     3502.3. (a) Notwithstanding any other provision of law, in  
4     addition to any other practices that meet the general criteria set  
5     forth in this chapter or the Medical Board of California's  
6     regulations for inclusion in a delegation of services agreement, a  
7     delegation of services agreement may authorize a physician  
8     assistant to do any of the following:  
9     (1) Order durable medical equipment, subject to any limitations  
10    set forth in Section 3502 or the delegation of services agreement.  
11    Notwithstanding that authority, nothing in this paragraph shall  
12    operate to limit the ability of a third-party payer to require prior  
13    approval.  
14    (2) For individuals receiving home health services or personal  
15    care services, after consultation with the supervising physician,  
16    approve, sign, modify, or add to a plan of treatment or plan of care.  
17    (3) *After performance of a physical examination by the physician*  
18    *assistant under the supervision of a physician and surgeon*  
19    *consistent with this chapter, certify disability pursuant to Section*  
20    *2708 of the Unemployment Insurance Code.*  
21    (b) Nothing in this section shall be construed to affect the  
22    validity of any delegation of services agreement in effect prior to  
23    the enactment of this section or those adopted subsequent to  
24    enactment.  
25    SEC. 2. Section 2708 of the Unemployment Insurance Code,  
26    as added by Section 2 of Chapter 350 of the Statutes of 2013, is  
27    amended to read:  
28    2708. (a) (1) In accordance with the director's authorized  
29    regulations, and except as provided in subdivision (c) and Sections  
30    2708.1 and 2709, a claimant shall establish medical eligibility for  
31    each uninterrupted period of disability by filing a first claim for  
32    disability benefits supported by the certificate of a treating  
33    physician or practitioner that establishes the sickness, injury, or  
34    pregnancy of the employee, or the condition of the family member  
35    that warrants the care of the employee. For subsequent periods of

1 uninterrupted disability after the period covered by the initial  
2 certificate or any preceding continued claim, a claimant shall file  
3 a continued claim for those benefits supported by the certificate  
4 of a treating physician or practitioner. A certificate filed to establish  
5 medical eligibility for the employee's own sickness, injury, or  
6 pregnancy shall contain a diagnosis and diagnostic code prescribed  
7 in the International Classification of Diseases, or, if no diagnosis  
8 has yet been obtained, a detailed statement of symptoms.

9 (2) A certificate filed to establish medical eligibility of the  
10 employee's own sickness, injury, or pregnancy shall also contain  
11 a statement of medical facts, including secondary diagnoses when  
12 applicable, within the physician's or practitioner's knowledge,  
13 based on a physical examination and a documented medical history  
14 of the claimant by the physician or practitioner, indicating the  
15 physician's or practitioner's conclusion as to the claimant's  
16 disability, and a statement of the physician's or practitioner's  
17 opinion as to the expected duration of the disability.

18 (b) An employee shall be required to file a certificate to establish  
19 eligibility when taking leave to care for a family member with a  
20 serious health condition. The certificate shall be developed by the  
21 department. In order to establish medical eligibility of the serious  
22 health condition of the family member that warrants the care of  
23 the employee, the information shall be within the physician's or  
24 practitioner's knowledge and shall be based on a physical  
25 examination and documented medical history of the family member  
26 and shall contain all of the following:

27 (1) A diagnosis and diagnostic code prescribed in the  
28 International Classification of Diseases, or, if no diagnosis has yet  
29 been obtained, a detailed statement of symptoms.

30 (2) The date, if known, on which the condition commenced.

31 (3) The probable duration of the condition.

32 (4) An estimate of the amount of time that the physician or  
33 practitioner believes the employee needs to care for the child,  
34 parent, grandparent, grandchild, sibling, spouse, or domestic  
35 partner.

36 (5) (A) A statement that the serious health condition warrants  
37 the participation of the employee to provide care for his or her  
38 child, parent, grandparent, grandchild, sibling, spouse, or domestic  
39 partner.

1 (B) “Warrants the participation of the employee” includes, but  
2 is not limited to, providing psychological comfort, and arranging  
3 “third party” care for the child, parent, grandparent, grandchild,  
4 sibling, spouse, or domestic partner, as well as directly providing,  
5 or participating in, the medical care.

6 (c) The department shall develop a certification form for bonding  
7 that is separate and distinct from the certificate required in  
8 subdivision (a) for an employee taking leave to bond with a minor  
9 child within the first year of the child’s birth or placement in  
10 connection with foster care or adoption.

11 (d) The first and any continuing claim of an individual who  
12 obtains care and treatment outside this state shall be supported by  
13 a certificate of a treating physician or practitioner duly licensed  
14 or certified by the state or foreign country in which the claimant  
15 is receiving the care and treatment. If a physician or practitioner  
16 licensed by and practicing in a foreign country is under  
17 investigation by the department for filing false claims and the  
18 department does not have legal remedies to conduct a criminal  
19 investigation or prosecution in that country, the department may  
20 suspend the processing of all further certifications until the  
21 physician or practitioner fully cooperates, and continues to  
22 cooperate, with the investigation. A physician or practitioner  
23 licensed by, and practicing in, a foreign country who has been  
24 convicted of filing false claims with the department may not file  
25 a certificate in support of a claim for disability benefits for a period  
26 of five years.

27 (e) For purposes of this part:

28 (1) “Physician” has the same meaning as defined in Section  
29 3209.3 of the Labor Code.

30 (2) “Practitioner” means a person duly licensed or certified in  
31 California acting within the scope of his or her license or  
32 certification who is a dentist, podiatrist, *physician assistant who*  
33 *has performed a physical examination under the supervision of a*  
34 *physician and surgeon*, or a nurse practitioner, and in the case of  
35 a nurse practitioner, after performance of a physical examination  
36 by a nurse practitioner and collaboration with a physician and  
37 surgeon, or as to normal pregnancy or childbirth, a midwife or  
38 nurse midwife, or nurse practitioner.

39 (f) For a claimant who is hospitalized in or under the authority  
40 of a county hospital in this state, a certificate of initial and

1 continuing medical disability, if any, shall satisfy the requirements  
2 of this section if the disability is shown by the claimant's hospital  
3 chart, and the certificate is signed by the hospital's registrar. For  
4 a claimant hospitalized in or under the care of a medical facility  
5 of the United States government, a certificate of initial and  
6 continuing medical disability, if any, shall satisfy the requirements  
7 of this section if the disability is shown by the claimant's hospital  
8 chart, and the certificate is signed by a medical officer of the  
9 facility duly authorized to do so.

10 (g) Nothing in this section shall be construed to preclude the  
11 department from requesting additional medical evidence to  
12 supplement the first or any continued claim if the additional  
13 evidence can be procured without additional cost to the claimant.  
14 The department may require that the additional evidence include  
15 any or all of the following:

- 16 (1) Identification of diagnoses.
  - 17 (2) Identification of symptoms.
  - 18 (3) A statement setting forth the facts of the claimant's disability.
- 19 The statement shall be completed by any of the following  
20 individuals:

- 21 (A) The physician or practitioner treating the claimant.
  - 22 (B) The registrar, authorized medical officer, or other duly  
23 authorized official of the hospital or health facility treating the  
24 claimant.
  - 25 (C) An examining physician or other representative of the  
26 department.
- 27 (h) This section shall become operative on July 1, 2014.